IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3546 OF 2003

Krishna Zitu Barshe : Petitioner

V/s.

Special Land Acquisition Officer,

Panvel. : Respondent

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Mr.P.S. Dani for the petitioner.

Mr.M.H.Solkar, Assistant Government Pleader for the respondent.

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CORAM : S.A. BOBDE, J.

February 17, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Solkar, learned Assistant Government Pleader, appears and waives service of rule on behalf of the respondent.

Heard by consent.

2. The petitioner is aggrieved by the order dated 6.3.2003 passed by the Civil Judge, Senior Division, Panvel, directing the petitioner to furnish Bank Guarantee

before being allowed to withdraw the amount of compensation deposited by the respondent. The compensation has been found due to the petitioner in respect of acquisition of his land.

3. It appears that after the petitioner's land was acquired under an award dated 31.7.2001, the Land Acquisition Officer deposited the amount of compensation due to the petitioner. It appears that the Civil Judge, Senior Division, who was hearing the reference under section 18 of the Land Acquisition Act, was informed that the State had preferred an appeal against the award. Even before that Court, there seems to have been a doubt as to whether such an appeal was registered and admitted by the High Court. In fact, the Court has observed that an appeal was proposed to be filed in the High court. Mr.Dani, learned counsel for the petitioner, submits that an appeal was filed but has been dismissed by this Court.

4. In the circumstances, having regard to the fact that the petitioner seeks to withdraw the compensation for loss of land acquired by the respondent, there is no reason why the petitioner should be asked to furnish the Bank Guarantee. Needless to say that the compensation will be withdrawn by the petitioner in accordance with the order

of the reference Court.

5. The rule is made absolute in the aforesaid terms.

Sd/-

S.A. BOBDE, J.